

**MEMORANDUM OF AGREEMENT
BETWEEN
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND
THE NEW JERSEY STATE HISTORIC PRESERVATION OFFICE
REGARDING THE STANDARD CHLORINE CHEMICAL COMPANY SITE,
HUDSON COUNTY, NEW JERSEY**

WHEREAS, the United States Environmental Protection Agency (USEPA) has the authority to respond with removal and remedial actions at the Standard Chlorine Chemical Company (SCCC) Superfund Site (the Site), located at 1025-1035 Belleville Turnpike, Town of Kearny, Hudson County, New Jersey, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601 et seq.; and

WHEREAS, the Site encompasses seven parcels, totaling approximately 25 acres, including the areal extent of contamination from the release or disposal of hazardous substances, pollutants or contaminants at the Site, as well as all suitable areas in close proximity to the contamination necessary for implementation of response actions. The Site is depicted generally on the map attached as Figure 1; and

WHEREAS, several chemical manufacturing and processing activities took place at this Site from the early 1900s to the 1990s, including the production, storage and packaging of various chemical products, including naphthalene, mothballs, drain cleaner, deodorizers, and lead-acid batteries, among other things. Site soil, groundwater and two onsite lagoons were contaminated with dioxin, benzene, naphthalene, polychlorinated biphenyls, and volatile organic compounds.

WHEREAS, USEPA has never had ownership of the Site; it is currently under the ownership of the Town of Kearny, with the exception of a former railroad right-of-way that is owned by the Hudson County Improvement Authority (see Figure 2).

WHEREAS, in October 1989, the New Jersey Department of Environmental Protection (NJDEP) and SCCC entered into an Administrative Consent Order. This Order required SCCC to plan and implement a number of interim remedial measures to prevent potential contact with materials in the lagoon area and to secure damaged tanks and containers, to conduct a Remedial Investigation and Feasibility Study, and to evaluate selected remedial alternatives for site remediation. In December 2001, the NJDEP referred the Site to the USEPA for proposed addition to the National Priorities List (NPL).

WHEREAS, on April 30, 2003, the USEPA proposed to add the Site to the NPL; this listing was finalized on September 19, 2007, with work continuing through this period of site listing.

WHEREAS, on May 3, 2013, Apogent Transition, Corp.; Beazer East, Inc.; Cooper Industries, LLC; and Occidental Chemical Corporation, as settling parties, voluntarily entered into an Administrative Settlement Agreement and Order on Consent (Settlement Agreement) with the USEPA for the preparation and performance of a remedial investigation and focused feasibility study (RI/FFS) at the Site; and

WHEREAS, upon completion of the RI/FFS, the USEPA expects to issue a Record of Decision that sets forth the cleanup remedy to be implemented at the Site; and

WHEREAS, the USEPA and the New Jersey State Historic Preservation Office (NJSHPO) acknowledge that actions taken pursuant to CERCLA shall be performed in accordance with laws,

regulations, and Applicable or Relevant and Appropriate Requirements (ARARs), including those pertaining to historic properties; and

WHEREAS, the involvement of the USEPA at the Site constitutes an undertaking under Section 106 of the National Historic Preservation Act (NHPA, 16 U. S. C. 470f); and

WHEREAS, the USEPA has consulted with the NJSHPO pursuant to 36 CFR Part 800, regulations implementing Section 106 of the NHPA; and has established the Area of Potential Effect (APE) as defined in 36 CFR Section 800.16(d) of NHPA, to be the Site, as shown in Figure 1; and

WHEREAS, it was determined that an interim remedial measure was needed at this site, consisting of the construction of a 7,000 foot long slurry wall requiring an excavation of trench 3 feet wide by up to 28 feet deep, as well as a groundwater conveyance system; and

WHEREAS, to assess the potential for the slurry wall and groundwater conveyance system to adversely affect cultural resources, in August 2009, a report entitled "Phase IA Cultural Resource Survey for the Standard Chlorine Chemical Company Site, Interim Response Action Work Plan, Town of Kearny, Hudson County, New Jersey," was prepared for the Site. This report concluded that the project area had a low to moderate sensitivity for prehistoric archaeological resources, and noted the presence of four historic resources onsite or in proximity to the Site: the Pennsylvania Railroad New York to Philadelphia Historic District, the Portal Bridge, the Edison Battery Plant, and the Jersey City Water Works. In consultation with the NJSHPO, it was determined that a Phase IB archeological survey would be needed for the APE to determine if the archeological remains of the Jersey City Water Works Pipeline and its historic period drainage structures could be adversely affected by construction of the slurry wall and groundwater conveyance system; and

WHEREAS, backhoe testing completed in conjunction with the 2010 document entitled "Summary Phase IB Cultural Resource Report," determined that the Jersey City Water Works Pipeline and historic period drainage structures were not present within the APE of the slurry wall and groundwater conveyance system interim remedial measure; and

WHEREAS, the USEPA and the NJSHPO determined that construction of the slurry wall and groundwater conveyance system would have no adverse effect on historic properties provided that an archaeological sampling and monitoring was conducted during the construction of the slurry wall in accordance with the approved plan; and

WHEREAS, during archaeological monitoring, the SCCC Site (28-Hd-44) was discovered. Prehistoric use of the site was uncovered in eight samples, with a total of 146 possible pieces of lithic debitage being uncovered. Subsequently, a NJSHPO Opinion of Eligibility in the National Register of Historic Places was written for SCCC Site (28-Hd-44) on May 22, 2012. 28-Hd-44 is eligible under Criterion D for the potential to add important information in prehistory, specifically Native American exploitation of the Hackensack River drainage during the Woodland period. No further construction activities are contemplated in the area of 28-Hd-44, no additional archaeological investigations beyond what has been completed are anticipated; and

WHEREAS, in addition to archaeological resources, cultural investigations noted the presence of five potentially historic buildings comprising the Edison Battery Plant Property: Building 23 (The Gatehouse), Building 1 (the Office and Laboratory Building), Building 2 (the Battery Manufacturing

Building), Building 3 (the Service and Maintenance Building), and Building 4 (the Boiler House), were evaluated in 2007 and determined by the NJSHPO in consultation with the United States Department of Transportation and the NJDEP Division of Land Use Regulation to be eligible for inclusion to the National Register of Historic Places in a SHPO Opinion letter of April 8, 2008; and

WHEREAS, a recent visual review of these buildings found them to be in a significant state of disrepair, and structurally unsafe to enter. It is now anticipated that remediation of the Site will result in the demolition of all five of these buildings, resulting in an adverse effect to these historic properties. Since these historic buildings were determined to be so significantly compromised that they are not salvageable, avoidance or minimization of adverse effects resulting from their demolition is not considered feasible; and

WHEREAS, on July 30, 2015, the USEPA notified the NJSHPO that the remediation of the Site would have an adverse effect on these resources, and they concurred with this determination on September 4, 2015; and

WHEREAS, as it was anticipated that remedial activities at the Site would result in adverse effects to these resources, including the potential for demolition, a program of mitigation, including recordation of the potentially impacted buildings, was initiated. This effort resulted in the completion of the following documents: "Historic American Buildings Survey, Edison's Emark Battery Plant, 1025-1035 Belleville Turnpike, Town of Kearny, Hudson County, New Jersey" (2015); the booklet "This Is The Story of Emark, a Product of Thomas A. Edison, Inc." (2015), and "This Is The Story of Emark: Learning from New Jersey History, Teachers Guide and Lesson Plans, Grade 4" (2015), which all have been reviewed, revised based on comments received from the USEPA and the NJSHPO, and finalized.

WHEREAS, in February 2014, the USEPA issued a Community Involvement Plan for the Site to facilitate two-way communication between the local communities affected by and interested in the Site and the USEPA, as well as to encourage community involvement in Site activities. In developing this plan, the USEPA drew upon diverse information sources, including community interviews of residents and local officials. As part of the Community Involvement Plan, the USEPA has established a local information repository for Site-related documents at the Kearny Public Library, and maintains a website (<http://cumulis.epa.gov/supercpad/cursites/csinfo.cfm?id=0200146>) regarding Site activities.

WHEREAS, the the USEPA has provided the Advisory Council on Historic Preservation (ACHP) an opportunity to comment on the proposed undertaking and its effects on historic properties pursuant to 36 CFR § 800.6(a)(1); and by letter dated February 10, 2016, the ACHP has determined that their participation in ongoing consultation efforts to resolve adverse effects is not needed.

NOW, THEREFORE, the USEPA and NJSHPO agree that the following Stipulations will be implemented in consideration of the effect of the undertaking on historic properties at the Site:

STIPULATIONS

The following stipulations of this MOA have been implemented by the USEPA in conjunction with the responsible parties, the following measures designed to avoid, minimize or mitigate adverse effects on significant historic properties. These measures included the following:

I. ARCHITECTURAL PROPERTIES

- A. The Edison Battery Plant site is eligible for inclusion in the National Register of Historic Places. To mitigate the adverse effects of the undertaking to this historic property, project contractors have completed the following reports: an Historic American Buildings Survey, a popular history, and a lesson plan, which have been reviewed and approved by the NJSHPO and the USEPA.

II. PRE-CONTACT PERIOD PROPERTIES

- A. Evidence for Pre-Contact period activity was discovered as a result of a Phase IB archaeological investigation in conjunction with the proposed construction of the slurry wall. This resource is registered at the New Jersey State Museum as part of the SCCC site (28-Hd-44) and is being protected through a combination of avoidance and monitoring.
- B. If further remedial activities become necessary within or adjacent to 28-Hd-44, any additional sub-surface archaeological investigations needed within those locations shall be carried out prior to conducting the activities. If resources are identified, they shall be evaluated, in accordance with the *Secretary of the Interior's Standards and Guidelines for Evaluation* (48 Fed. Reg. 44716), with respect to their eligibility for nomination to the National Register of Historic Places. Should such properties be determined to be eligible, then appropriate steps shall be taken consistent with Section 106 of the NHPA to avoid, minimize or mitigate any adverse effects.
- C. Unanticipated but recognized finds encountered during Site activities shall immediately be reported to the USEPA and the NJSHPO for further consultation. Work in the area of the find shall be halted until directed by the USEPA to proceed. Archaeological investigations deemed necessary (Phases I, II, and/or III) shall be conducted according to the *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation* (48 Fed. Reg. 44738-39) and the standards for conducting archaeological investigations currently adopted by the NJSHPO.
- D. If human remains, associated funerary objects or graves are discovered at the Site, the activities at the Site shall immediately be halted in the area of the find. The medical examiner or appropriate law enforcement official of Hudson County, New Jersey and the USEPA shall immediately be notified. Protective measures such as barriers or fencing shall be erected until the plan for treatment is complete. Work shall not proceed in the area of the find until consultation with the USEPA, NJSHPO, any consulting parties, and any appropriate authorities is completed and the USEPA has issued a written notice to proceed.

III. INTERPRETATION AND TREATMENT OF IDENTIFIED ARCHITECTURAL AND PRE-CONTACT PERIOD HISTORIC PROPERTIES

- A. During archaeological monitoring, the SCCC Site (28-Hd-44) was discovered. This archaeological site provides evidence of prehistoric use of the area. Eight of the samples taken uncovered a total of 146 possible pieces of lithic debitage most likely from Snake Hill. The material found is currently held by Langan Engineering and Environmental Services, Inc. on behalf of the settling parties. No curation plans for these artifacts have been advanced to date. The USEPA shall ensure that all artifacts from New Jersey Register of Historic Places- and the National Register of Historic Places-eligible archaeological sites will be analyzed, catalogued, and curated in accordance with the National Park Service Standards, codified as 36 CFR Part 79.
- B. The documents and exhibits prepared as mitigation for the above-referenced adverse effects, shall be offered and/or distributed as indicated below:

Recipients	HABS Survey	Booklet	Retractable Panel Traveling Exhibit	Teachers Guide & Lesson Plan	Any reports from Stipulation IIC
USEPA	1	10 hard copies, 5 CDs	2	10 hard copies, 5 CDs	2
NJSHPO	2	1	1	1	1
Town of Kearny (for exhibit in Town Hall and the Public Library)	0	1	1	0	0
Kearny Museum	0	1	1	0	0
Kearny Public Library	0	1	0	0	0
Kearny Board of Education	0	1	0	0	0
Newark Public Library	0	1	0	0	0
Hudson County Division of Cultural and Heritage Affairs	0	1	0	0	0
Thomas Edison National Historical Park	0	1	0	0	0
Thomas Edison Center at Menlo Park	0	1	0	0	0
Thomas A. Edison Birthplace Museum	0	0	0	0	0
Edison Museum	0	0	0	0	0
Edison & Ford Winter Estates	0	0	0	0	0
Henry Ford Museum		1	0	0	0
New Jersey State Museum	0	1	0	0	0
New Jersey Historical Society	0	1	0	0	0
Rutgers University Special Collections and University Archives	0	1	0	0	0
Franklin Elementary School	0	0	0	1 Electronic Copy	0
Garfield Elementary School	0	0	0	1 Electronic Copy	0
Roosevelt Elementary School	0	0	0	1 Electronic Copy	0
Schuyler Elementary School	0	0	0	1 Electronic Copy	0
Washington Elementary School	0	0	0	1 Electronic Copy	0

IV. COORDINATION OF REVIEWS FOR PROJECT ACTIVITIES

Documents resulting from actions pursuant to this MOA have been submitted to the USEPA and the NJSHPO, and have been reviewed and approved. Reports will be responsive to contemporary standards, and as appropriate to the *Department of the Interior's Format Standards for Final Reports of Data Recovery Programs* (42 FR 5377-79) and current the NJSHPO report standards. Precise site locational data may be provided only in a separate appendix for limited distribution consistent with National Register Bulletin Number 29, *Guidelines for Restricting Information about Historic and Prehistoric Resource*, if it appears that release of such data could jeopardize archaeological sites.

V. PUBLIC INVOLVEMENT

- A. Copies of this MOA and any relevant documentation prepared pursuant to the terms of this MOA shall be made available for public inspection at the information repository for the Site located at the Kearny Public Library, 318 Kearny Avenue, Kearny, New Jersey (information regarding the locations of archaeological sites will be withheld in accordance with the Freedom of Information Act and National Register Bulletin 29, if it appears that this information could jeopardize archaeological sites). Any comments received from the public under this MOA shall be taken into account by the USEPA.
- B. This site currently does not have an active Community Advisory Group. However, annual community updates are issued for this project, the most recent in August 2015. These updates will include information on any documents that have been released, including those prepared pursuant to Section 106 of the NHPA.

VI. POST-REVIEW DISCOVERIES

If properties are discovered that may be historically significant or unanticipated effects on historic properties found, the USEPA shall notify the NJSHPO within three business days. The USEPA shall consult with the NJSHPO to determine if there will be additional adverse effects requiring additional consultation.

VII. OBJECTIONS, AMENDMENTS AND DISPUTE RESOLUTION

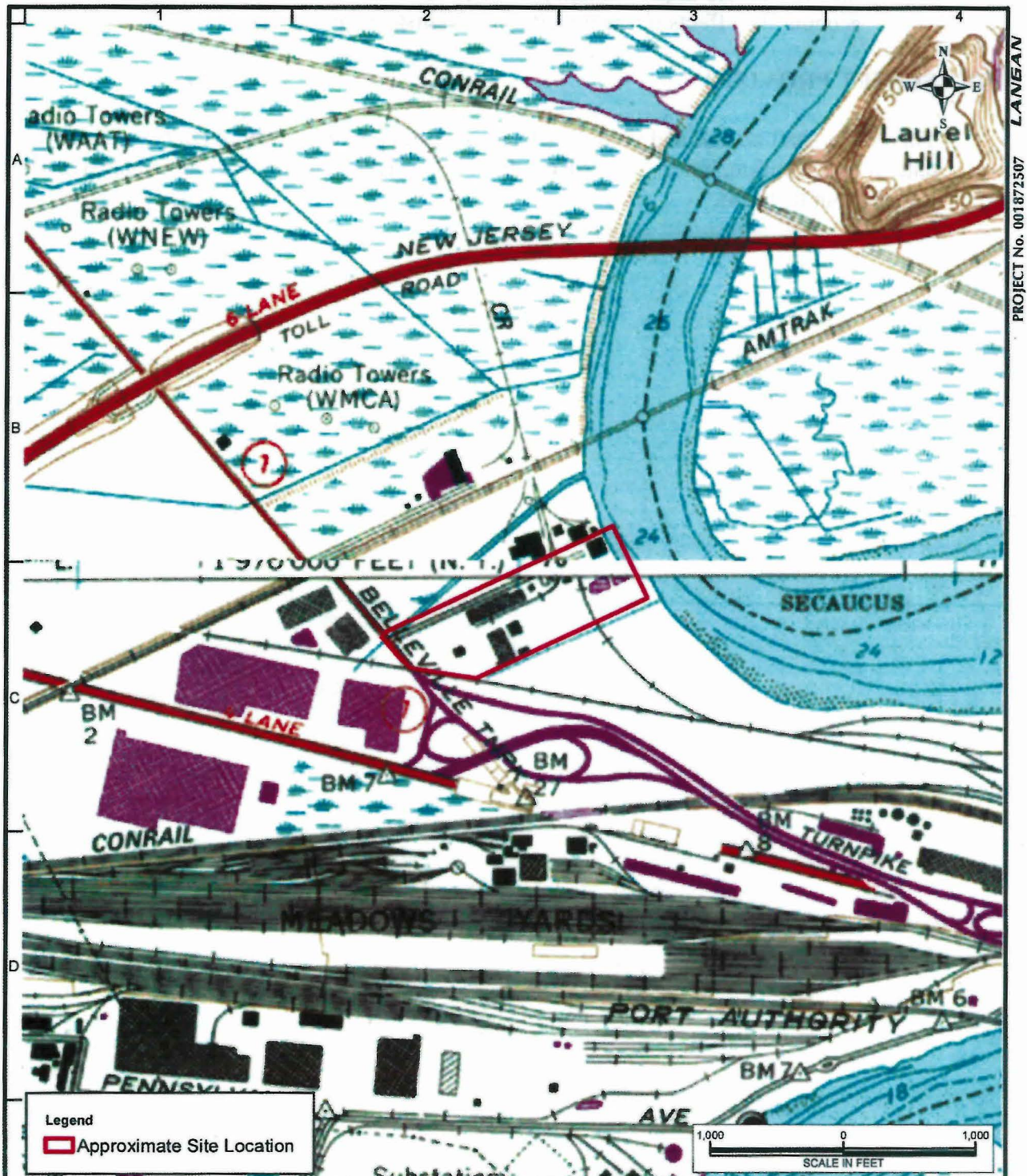
- A. Should the NSHPO or other signatory to this MOA object within thirty (30) days to any action proposed pursuant to this Agreement, the USEPA shall consult with the objecting party to resolve the objection. If the USEPA determines that the objection cannot be resolved, the USEPA shall request that the ACHP join the consultation pursuant to 36 CFR Section 800.6(b). Any ACHP comments provided in response will be taken into account by USEPA in accordance with 36 CFR Section 800.6(b)(2) and 36 CFR Section 800.7 with respect only to the subject of the dispute; the USEPA's responsibility to carry out actions under this MOA that are not the subject of such a dispute will remain unchanged.
- B. Any party to this MOA may request that it be amended, whereupon the parties will consult in accordance with 36 CFR Section 800.6(c)(7) to consider such amendment.

- C. Execution of this MOA by the USEPA and the NJSHPO, its subsequent acceptance by the ACHP, and implementation of its terms are evidence that the USEPA has taken into account the effects of the undertaking on historic properties.

VIII. SUNSET PROVISION

This MOA shall be null and void if its terms are not carried out within ten (10) years from the date of its execution, unless the USEPA and the NJSHPO agree in writing to an extension for carrying out its terms.

Figure 1



LANGAN

River Drive Center 1, 619 River Drive
Brimwood Park, NJ 07407-1338
T: 201.794.6900 F: 201.794.0366 www.langan.com

Langan Engineering & Environmental Services, Inc.
Langan Engineering, Environmental, Surveying and
Landscape Architecture, D.P.C.
Langan International LLC
Collectively known as Langan

NJ CERTIFICATE OF AUTHORIZATION No. 24GA27995400

Project

**STANDARD CHLORINE
CHEMICAL COMPANY
CULTURAL RESOURCE
SURVEY WORK PLAN
KEARNY TOWNSHIP**

BLOCK 287
LOT 48, 49, 50, 51, 52, 52R

HUDSON COUNTY NEW JERSEY

Drawing Title

**SITE
LOCATION MAP**

Project No.

001872507

Date

7/18/2013

Scale

1" = 1,000'

Drawn By

ARL

Figure

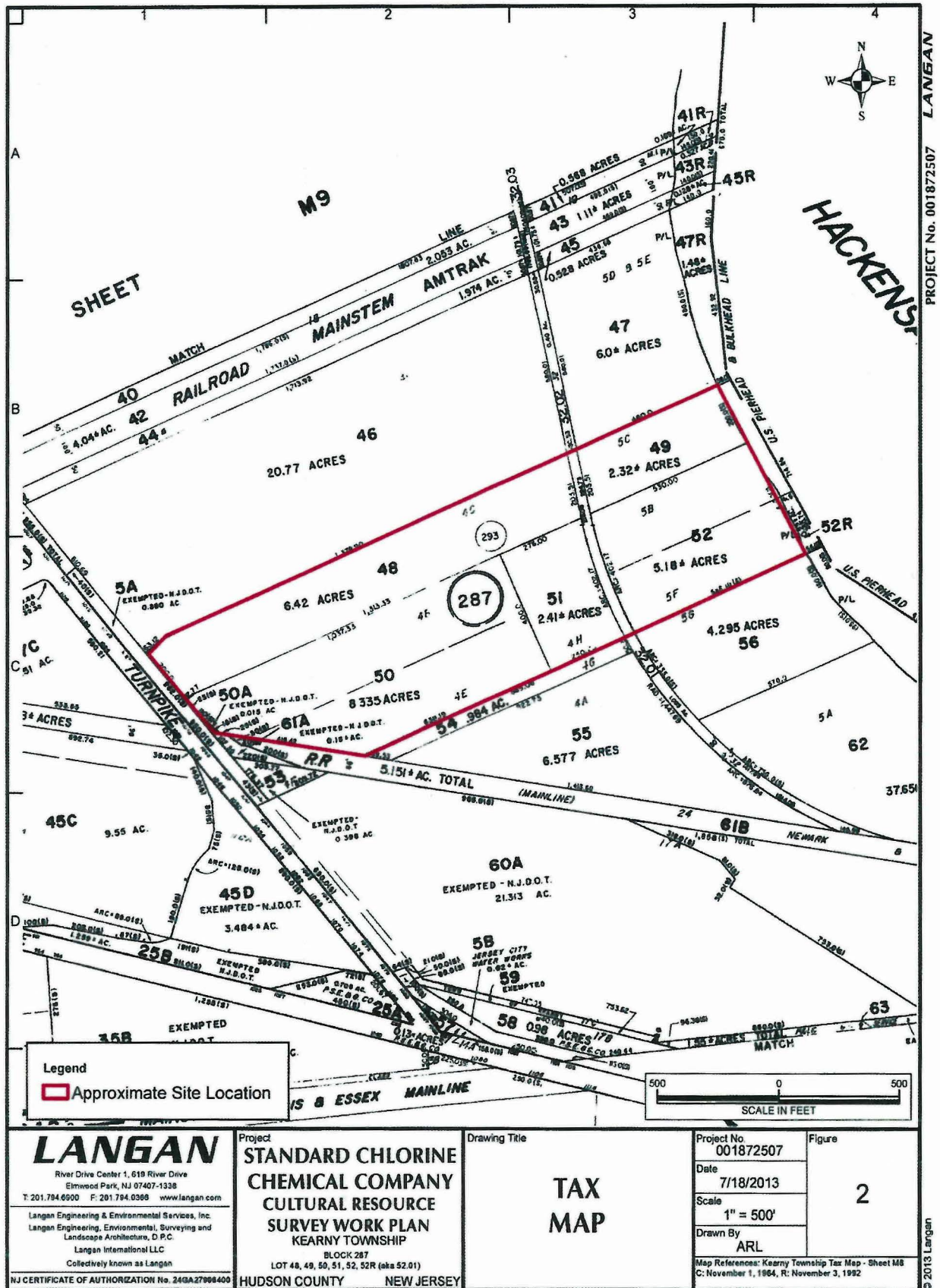
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Map References: USGS Topographic Quadrangle Jersey
City (C. 1967, R. 1981, Vertical Datum NGVD 1929)
AND Weehawken (C. 1988, Vertical Datum NGVD 1929)

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Path: \\langan.com\data\EP\data\5001872507\ArcGIS\Map_Documents\ALoss2013_SuperfundChlorine\F1 - USGS Site Location Map.mxd

Figure 2

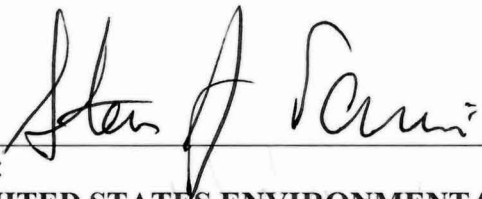


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FOR THE STANDARD CHLORINE CHEMICAL COMPANY SITE,
HUDSON COUNTY, NEW JERSEY
SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
PURSUANT TO 36 CFR PART 800**

Signatory


By: _____

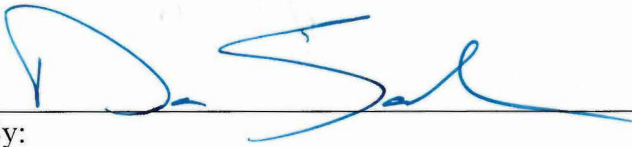
3/1/16
Date

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Steven J. Ferreira
Print Name

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SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
PURSUANT TO 36 CFR PART 800**

Signatory



By:

NEW JERSEY STATE HISTORIC PRESERVATION OFFICE

4/4/16
Date

DAVID D. SAUNDERS

Print Name

ATTACHMENT A

STANDARD CHLORINE CHEMICAL COMPANY SITE REPORTS

AKRF. 2008. Portal Bridge Capacity Enhancement Project: Final Environmental Impact Statement, Hudson County, New Jersey. For Amtrak and NJ Transit.

Langan Engineering and Environmental Service (Langan). 2009. *Phase IA Cultural Resource Work Plan for the Standard Chlorine Chemical Company Site, June 2009.*

Langan. 2009. *Phase IA Cultural Resource Survey for the Standard Chlorine Chemical Company Site, Interim Response Action Workplan, August 2009.*

Langan. 2010. *Phase IA Geomorphological Assessment for the Standard Chlorine Chemical Company Site, Interim Response Action Workplan, May 2010.*

Langan. 2010. *Phase IB Archaeological Survey for Slurry Wall Construction Work Plan for the Standard Chlorine Chemical Company Site, July 2010.*

Langan. 2012. *Archaeological Monitoring Report During Construction of the Slurry Wall for the Standard Chlorine Chemical Company Site, Interim Response Action Workplan, August 2012.*

New Jersey Department of Environmental Protection (NJDEP). 2008. Letter from Mr. Terry Karschner, NJDEP, State Historic Preservation Officer, to Mr. Mark Yachmetz, U.S. Department of Transportation, regarding consultation for the Portal Bridge Capacity Enhancement Project – Draft Environmental Impact Statement, Hudson County, NJ, dated April 8, 2008.

Langan. 2015. *“Historic American Buildings Survey, Edison’s Emark Battery Plant, 1025-1035 Belleville Turnpike, Town of Kearny, Hudson County, New Jersey, January 2015.*

Arch² Inc. 2015. *“This Is The Story of Emark, a Product of Thomas A. Edison, Inc.,” 2015.*

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